

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

RICHARD K. COOK,

Petitioner,

vs.

BRAD HANSEN, Warden - TSCI;  
SCOTT FRAKES, Director - Nebraska;  
and DEPARTMENT OF  
CORRECTIONAL SERVICES,

Respondents.

**8:18CV332**

**MEMORANDUM  
AND ORDER**

This matter is before the court on Petitioner's Motion for Extension of Time and request for the appointment of counsel. ([Filing No. 24.](#))

**I. MOTION FOR EXTENSION**

Petitioner seeks an additional 90 days in which to respond to Respondents' Answer and Brief in Support. Upon consideration, Petitioner's motion is granted, and he shall have until October 10, 2019, to file a brief in response. Given the length of the extension, **no further extensions shall be granted absent exceptional circumstances.**

**II. MOTION FOR APPOINTMENT OF COUNSEL**

Petitioner also requests that counsel be appointed to represent him in these habeas proceedings. "[T]here is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, [appointment] is committed to the discretion of the trial court." [McCall v. Benson](#), 114 F.3d 754, 756 (8th Cir. 1997). As a general rule, counsel will not be appointed unless the case is unusually

complex or the petitioner's ability to investigate and articulate the claims is unusually impaired or an evidentiary hearing is required. *See, e.g., Morris v. Dormire*, 217 F.3d 556, 558-59 (8th Cir. 2000), *cert. denied*, 531 U.S. 984 (2000); *Hoggard v. Purkett*, 29 F.3d 469, 471 (8th Cir. 1994). *See also* Rule 8(c) of the *Rules Governing Section 2254 Cases in the United States District Courts* (requiring appointment of counsel if an evidentiary hearing is warranted).

I denied Petitioner's previous motion for appointment of counsel without prejudice to reassertion (*see* [filing no. 9](#)), and I will also deny the present motion. Again, I have carefully reviewed the record and find there is no need for the appointment of counsel at this time. Petitioner's motion is denied without prejudice to reassertion.

IT IS THEREFORE ORDERED that:

1. Petitioner's Motion for Extension of Time ([filing no. 24](#)) is granted. Petitioner shall have until **October 10, 2019**, to file a brief in response to Respondent's Answer and Brief in Support.
2. Petitioner's request for the appointment of counsel is denied without prejudice to reassertion.
3. The clerk of the court is directed to set a pro se case management deadline in this case using the following text: **October 10, 2019**: check for Petitioner's brief in response to Respondent's answer and brief.

Dated this 28th day of June, 2019.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge